

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT

DAVID WAYNE BARRON,

Plaintiff

v.

File No. 1:09-CV-209

ANDREW PALLITO, PRISON HEALTH  
SERVICES, INC., DR. DELORES  
BURROUGHS-BIRON, DR. BALLARD,  
DR. GARRY WEISCHEDEL, RANDY  
PORTER, THERESA STONE, KEVIN  
JENKINS, JODY BERRIER, MENTAL  
HEALTH MANAGEMENT, INC.,

Defendants

**ORDER**

The Magistrate Judge's Report and Recommendation was filed August 12, 2010. (Doc. 44.) After de novo review and over objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1).

Plaintiff's motion for a preliminary injunction (Doc. 22) and defendants' motion for final judgment (Doc. 47) are DENIED. Defendants' motion to dismiss (Doc. 57) is GRANTED to the extent that the individual capacity claims brought against defendant Andrew Pallito are DISMISSED; the motion is otherwise DENIED.

This matter is returned to Magistrate Judge John M. Conroy for further proceedings.

It is further certified that any appeal taken in forma pauperis from this Order would not be taken in good faith because such an appeal would be frivolous. See 28 U.S.C. § 1915(a)(3).

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 23rd day of September, 2010.

/s/ J. Garvan Murtha

Honorable J. Garvan Murtha

Senior United States District Judge